



"Creating Better Building Envelopes"

**BUILDING EXTERIOR SOLUTIONS, LLC**

6975 Portwest Drive, Suite 100  
Houston, Texas 77024  
(713) 467-9840 TEL (713) 467-9845 FAX  
www.besgrp.com

September 5, 2013

Via: Email (pdf)

Ms. Heather Carmichael, BA  
Contract Administrator/Buyer  
County of Johnson Texas  
1102 E. Kilpatrick, Suite B  
Cleburne, TX 76031

**Re: PROPOSAL FOR PROFESSIONAL SERVICES**

Johnson County Corrections – Roof/Ceiling Condensation Assessment  
Houston, Texas  
BES No. 6120

Dear Ms. Carmichael:

Building Exterior Solutions, LLC (BES) is pleased to prepare this professional services proposal to assist Johnson County with the assessment of the condensation problems present at the ceiling of portions of the Johnson County Corrections Facility. We have received information including a markup of the building plan indicating problematic areas as well as photographs of various conditions. This information was received from Darrell Durant with Pete Durant and Associates, Inc.

**SCOPE OF SERVICES**

We understand that the main purpose of our scope of services is to assess the conditions present and to determine the cause(s) of the suspect condensation. At this time, it is believed that the distress is mainly in the form of stains/wet tectum ceiling panels in four of the dormitory areas of the facility. We also understand that no significantly distressed structural conditions have been observed thus far; however, some corrosion has been observed along the bottom edges of steel roof purlins.

More specifically, we propose to observe and document conditions from the ground as well as up close from an aerial lift (scissor lift or similar). We understand that a dedicated lift is available on-site. We also understand that several observation areas have been made by removing the tectum panels and that additional observation openings can be made if necessary. We will also measure and record information relevant to the environmental conditions and HVAC system present during our observations. We will review and analyze the information collected, perform building envelope calculations as necessary, and provide a summary report of our findings and recommendations.

Prior to developing a written report, we will verbally brief you on our findings. At that time, you may choose to direct us to develop a protocol for remediation of the conditions based on our discussion in lieu of preparing a formal written report. To complete this task, any remaining budget in our authorization would be applied toward development of the remediation protocol. If this remaining budget would not be sufficient to cover the protocol entirely, we will inform you of the additional budget recommended to complete this task. With your authorization to perform these services, we will prepare a brief narrative describing the conditions present and our findings as well as a written protocol containing sketch(es),



notes, and technical specifications as required. Our report and/or protocol will be sealed by a Registered Professional Engineer.

## **FEE ESTIMATE**

BES proposes to perform the tasks outlined in the Scope of Services above for the estimated fee of \$7,200, which includes reimbursable expenses.

Our payment terms are based on compensation for actual time spent at the rates current when our services are performed and for related expenses incurred. Our estimate should not be considered a Lump Sum or Guaranteed Maximum contract. Our invoices will be issued monthly. We will endeavor to inform you as the project progresses if it appears that the budget estimate will need to be exceeded. This cost estimate is valid for 30 days after the date of this proposal. No services will be performed beyond the approved total without prior approval by Johnson County.

## **AUTHORIZATION**

Please provide us formal authorization by signing in the space on the last page of this proposal. We will perform the scope of services described in this proposal under the attached Terms and Conditions. We understand our contract will be with, and our invoices will be paid directly by Johnson County. Our payment terms are based on compensation for actual time spent at the rates current when our services are performed. You can fax us a signed copy of this agreement to (713) 467-9845 to expedite authorization; however, we need to have an original signed copy returned to us for our files. Please provide us with any special procedures or P.O. numbers necessary for your authorization and any special invoicing requirements to help ensure efficient processing of our invoices. Until we have a mutually agreed signed contract, it is mutually understood that we are working under BES's Standard Terms and Conditions that are attached, for any services we are instructed to perform.

*(continued)*



**CLOSING**

Thank you for requesting BES to prepare this proposal for you. We look forward to the opportunity of serving you on this project.

Very truly yours,

**BUILDING EXTERIOR SOLUTIONS, LLC**

Matt McElvogue, P.E., RWC, RRO  
Associate Principal  
Project Manager

Jerry Abendroth RRC, RWC, RRO, CDT, CSI  
Principal/Partner

Encl.: BES Standard Terms and Conditions  
BES Standard Fee Schedule

**Agreed and Approved**

Name: Roger Harmon (please print)

Authorized Signature:

Title: County Judge

As Agent or Principal For: Johnson County

Date: 3-10-14



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## TERMS AND CONDITIONS

These Terms and Conditions for Building Exterior Solutions, LLC (BES) are included with and part of the attached proposal and will continue in full force and effect during, and after the completion or termination of, the engagement of BES by the Client, and will control any conflicting term or condition unless BES agrees otherwise in writing. The Client is named on the "Client" line filled in by the Client on the attached proposal.

**PERFORMANCE.** BES and its employees will exercise the degree of skill and care expected by customarily accepted practices and procedures. NO WARRANTIES, EXPRESSED, IMPLIED OR STATUTORY, (INCLUDING ANY IMPLIED CONDITIONS OR WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE) ARE MADE WITH RESPECT TO BES'S PERFORMANCE, UNLESS AGREED TO IN WRITING. BES is not a guarantor of the project to which its services are directed, and its responsibility is limited to services described in the proposal and performed for the Client. BES may rely upon information supplied by the Client, or the contractors or consultants involved, or information available from generally accepted reputable sources, without independent verification. BES is not responsible for acts or omissions of the Client, nor for third parties not under its direct control. BES IS NOT LIABLE FOR ANY REASON FOR ANY PUNITIVE DAMAGES OR ANY SPECIAL, INDIRECT, OR CONSEQUENTIAL DAMAGES (INCLUDING BUT NOT LIMITED TO LOSS OF USE, POWER, REVENUE, PROFIT, OR BUSINESS GOODWILL, OR FOR BUSINESS INTERRUPTION). BES will take reasonable precautions to minimize any damage to the Client's property during conduct of any BES field work and testing. However, in the normal course of this type of work some damage may occur, and BES will have no liability for this damage. BES's services are performed solely for the Client's benefit. No contractor, subcontractor, supplier, fabricator, manufacturer, tenant, occupant, consultant, or other third party will have any claim against BES as a result of BES's services. BES may suspend performance of its services if the Client fails to make payment when due, and will have no liability to the Client for delay or damage caused the Client because of such suspension of services.

**LIMITATIONS DURING FIELD WORK, CONSTRUCTION, OR REPAIR WORK.** During, or as part of the process of, field work, construction, or repair work, BES will not control, have charge of, or be responsible for construction means, methods, techniques, sequences, or procedures, or for safety precautions and safety programs in connection with the project; these are solely the responsibility of others. BES is not responsible for the safety of other persons and property. BES is not responsible for, among other things, the contractor's schedules, performance of the work in general compliance with the contract documents, timeliness in the completion of the work, superintending the work, compliance with regulatory requirements, or failure to carry out the project in accordance with the contract documents. BES will not control or have charge of acts or omissions of the contractor, subcontractor, suppliers, or their agents or employees, or any other non-BES persons performing portions of the project. BES will perform field work only under conditions deemed safe by BES.

**LIMITATION OF LIABILITY.** To the fullest extent permitted by law, the Client agrees to limit BES's liability and hold harmless for any and all claims, losses, costs, expenses, or damages of any nature whatsoever, including reasonable attorney's and expert witness' fees and costs, from any cause or causes, (including without limitation, by reasons of negligence, warranty, strict liability, tort, contract, or otherwise), arising out of or in connection with BES's services associated with this project, to \$50,000 or fees actually paid for services, whichever is greater. If the Client wishes a greater limit, BES will attempt to obtain insurance, and Client will pay for the cost of the insurance. It is intended that this limitation apply to any and all liability or causes of action however alleged or arising, unless specifically prohibited by law. **However, Johnson County does not waive any portion of the Texas Tort Claims Act. Johnson County does not waive any constitutional, statutory or common law immunities or any limitations on liability or incurring of debt established by Texas Statutes or the Texas Constitution.**

**PROPOSALS.** Proposals expire 30 days after submission to the Client unless a different expiration limit is included in the proposal. BES may withdraw or modify a proposal at any time prior to acceptance by the Client.

**FEES, EXPENSES, AND BILLING TERMS.** Fees (time charges) for services will be accrued on an hourly basis unless other arrangements are made. Use of personal vehicles is billed at \$0.565 per mile. Expenses and subcontracted services are billed at cost plus 10%. BES equipment used in field work, such as cameras and tools, is billed at approximately 1% of its cost per day. The Client is responsible for payment of charges. Accumulated charges will be billed on an approximately monthly basis, and payment in full is due upon receipt of the invoice. Invoices which are not paid within 30 days from the invoice date are past due and will incur an interest charge of 1.5% per month, a \$50 per month administrative services charge, and related attorneys' fees and collection expenses. All fees and expenses quoted in proposals or listed in invoices are exclusive of taxes. Client shall be responsible for all taxes, levies, and assessments (excluding taxes based on BES's net income), and shall, upon notice from BES, promptly pay such taxes, levies, and assessments, of if BES has paid any such amounts, reimburse BES for all such all taxes, levies, and assessments.

**INSURANCE.** BES is protected for general, automobile, workers' compensation, and employers' liability coverage by policies written by national insurance companies rated by the A. M. Best Company. Coverage is subject to annual renewal. Limits and coverages are available upon request. Increased or additional coverages may be available, and their associated costs will be paid by the Client.



**SUBPOENAS AND COURT ORDERS.** The client is responsible for payment of time charges, attorneys fees, and other expenses resulting from a required response to subpoenas or court orders issued at the request of any party concerning any part of BES's work. Charges are based on billing rates in effect at the time of BES's response.

**DISPUTE RESOLUTION.** In any dispute that should arise between the Client and BES, the parties agree that as a condition precedent to any litigation/arbitration, the matter must first be submitted to mediation. The mediator will be mutually agreed upon and chosen from a list provided by the American Arbitration Association or other source of experienced professional mediators.

**HAZARDOUS MATERIALS.** BES's services do not include the identification of hazardous materials, and BES has no duty to identify or attempt to identify the same within the area of the project. "Hazardous materials" includes, but is not limited to, any substance, waste, pollutant (including mold and mildew) or contaminant, in whatever form, now or hereafter included with such terms under any federal, state, or local statute, code, rule, ordinance, or regulation which presently exist or may in the future be enacted or amended. Except as such liability may arise out of BES's sole gross negligence in the performance of services on this project or to the extent of insurance coverage available for the claim, the Client will hold BES harmless and indemnify and defend BES and its employees, subcontractors, and agents from and against any and all claims, lawsuits, damages, liability and costs, including but not limited to, costs of defense arising out of or in any way connected with the presence, discharge, release, or escape of hazardous materials. **However, Johnson County does not waive any portion of the Texas Tort Claims Act. Johnson County does not waive any constitutional, statutory or common law immunities or any limitations on liability or incurring of debt established by Texas Statutes or the Texas Constitution.**

**INDEPENDENT CONTRACTOR.** BES's relationship to Client is that of an independent contractor and not a partner, joint venture party, member, agent, or employee.

**ASSIGNMENT.** Neither the proposal nor these Terms and Conditions are assignable or transferable, in whole or in part, without the written consent of BES and Client.

**COMMUNICATIONS.** All notices and communications required to be given under the proposal and these Terms and Conditions shall be made in writing and deemed to have been made if mailed or hand-delivered to the other party at the address for such party listed in the proposal.

**GOVERNING LAW. THE PROPOSAL AND THESE TERMS AND CONDITIONS SHALL BE GOVERNED BY THE LAWS OF THE STATE OF TEXAS, EXCLUSIVE OF ITS CHOICE OF LAW PROVISIONS.**

**END OF DOCUMENT**